

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF NORTH CAROLINA  
NORTHERN DIVISION

NO. 2:19-cr-12-1FL

UNITED STATES OF AMERICA                     )  
   )  
   ) JOINT FACTUAL STATEMENT  
   )  
CAPT. NEILL'S SEAFOOD, INC.                 )

The United States of America ("United States"), by and through the United States Attorney for the Eastern District of North Carolina ("USA-EDNC"), and the Environmental Crimes Section of the United States Department of Justice ("ECS") (collectively referred to herein as "the United States" or "the Government"), and the Defendant, by and through its Designated Representative, and with the concurrence of the Defendant's Attorneys, Charles E. James, Jr., Camden Webb, and Elliot Sol Abrams, hereby agree that this Joint Factual Statement is a true and accurate statement of the Defendant's criminal conduct and that it provides a sufficient basis for the Defendant's plea of guilty to the Criminal Information filed herein.

1. CAPT. NEILL'S SEAFOOD, INC. ("CAPT. NEILL'S" or "the COMPANY"), is a North Carolina corporation, engaged in the business of purchasing, processing, packaging, transporting, and selling seafood and seafood products, including crab meat from domestically harvested blue crab (*Callinectes sapidus sapidus*). The COMPANY's marketing included the statement that it was a "North Carolina based company producing fresh domestic crabmeat for almost 30 years."

2. As part of its business, CAPT. NEILL'S purchased live U.S. blue crab. CAPT NEILL'S employed workers to pick and process the meat from the crabs. The picked crab meat was then sorted and packed as "jumbo lump," "lump," "backfin," or "special," depending on the size of the piece of crab meat. If supply of picked crab meat exceeded customer demand, CAPT. NEILL'S froze picked crab meat at its facility, and sold that crab meat when customer demand exceeded the supply of domestic blue crab available to CAPT. NEILL'S.

3. As part of its business, CAPT. NEILL's also purchased crab meat from species of crab other than domestically harvested blue crab, including crab indigenous to, and exported from, South America (*Callinectes sapidus acutidens*) and Asia (*Portunus pelagicus*).

4. As part of its business CAPT. NEILL'S sold crab meat to wholesalers, grocery stores, and retail establishments.

5. PHILLIP R. CARAWAN ("CARAWAN") was the owner and operator of CAPT. NEILL'S, and acted as the President and Chief Executive Officer of the COMPANY. CARAWAN was responsible for overseeing the daily operations of the COMPANY. CARAWAN managed and directed employees of the COMPANY with respect to the processing, packaging, and labeling, of crab meat.

6. For periods of time, beginning on an unknown date, but at least as early as January 1, 2012, and continuing through June 16, 2015, CAPT. NEILL'S was unable to satisfy customer demand for domestically harvested blue crab; nor did CAPT. NEILL'S have frozen domestically harvested blue crab to satisfy customer

demand. CARAWAN caused CAPT. NEILL'S to purchase foreign crab meat from South America and Asia. CARAWAN then directed CAPT. NEILL'S employees to repack foreign crab meat into containers labeled "Product of USA," which CAPT. NEILL'S then sold to customers as jumbo domestically harvested blue crab. CARAWAN knew that the crab meat CAPT. NEILL'S sold during that time period was labeled and represented as domestically harvested crab meat, when in truth and in fact it was foreign crab meat. CARAWAN did not inform its customers of the meat's true origin. The relevant sales are set forth below:

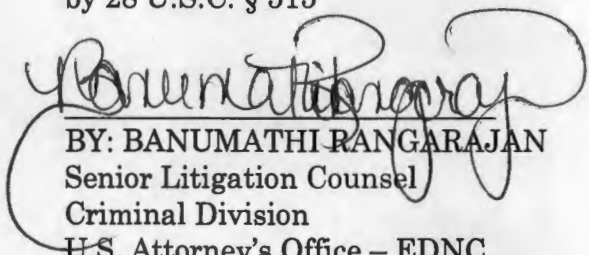
<b>Dates</b>	<b>Lbs. of Foreign Jumbo Crab Meat Purchased and Repacked</b>	<b>Average Wholesale Price</b>	<b>Total</b>
Jan. 1, 2012 – Dec. 31, 2012	22,896	\$21.00	\$480,816.00
Jan. 1, 2013 – Dec. 31, 2013	51,278	\$22.00	\$1,128,116.00
Jan. 1, 2014 – Dec. 31, 2014	62,843	\$23.00	\$1,445,389.00
Jan. 1, 2015 – Dec. 31, 2015	42,855	\$24.00	\$1,028,520.00
<b>Total Sales</b>			<b>\$4,082,841.00</b>

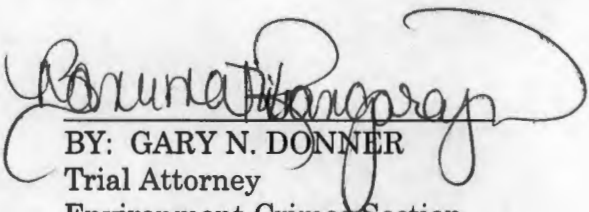
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9. During the relevant timeframe, the retail market value of the mislabeled jumbo crabmeat was \$4,082,841.

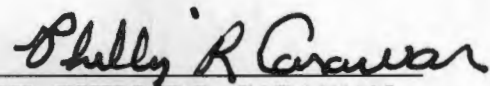
So AGREED TO THIS 21<sup>st</sup> DAY OF June, 2019.

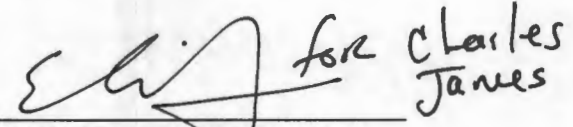
G. NORMAN ACKER, III  
Attorney for the United States  
Acting Under Authority Conferred  
by 28 U.S.C. § 515


  
BY: BANUMATHI RANGARAJAN  
Senior Litigation Counsel  
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BY: GARY N. DONNER  
Trial Attorney  
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CAPT. NEILL'S SEAFOOD, INC.  
Defendant

  
BY: PHILLIP R. CARAWAN  
President &  
Designated Representative  
Capt. Neill's Seafood, Inc.

 for Charles James  
CHARLES E. JAMES, JR.  
Attorney for the Defendant

  
ELLIOT SOL ABRAMS  
Attorney for the Defendant